

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-980600
Motor Vehicle Excise Tax
For The Period: 1994-1997

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Motor Vehicle Excise Tax – Imposition

Authority: IC 6-6-5-1; IC 6-6-5-6; IC 9-18-2-1

Taxpayer protests the imposition of the motor vehicle excise tax on a 1996 Mercury Van.

II. Tax Administration – Penalty and Interest

Authority: IC 6-8.1-10-2.1; 6-8.1-10-1

Taxpayer protests the imposition of the penalty and interest.

STATEMENT OF FACTS

Taxpayer was assessed the motor vehicle excise tax on a vehicle. Taxpayer is a salesperson and states that his sales company was based in Illinois from 1994 to 1998. Taxpayer claims that the nature of his business requires him to travel throughout the country ("365 days a year from coast to coast"). Taxpayer further states that given his traveling schedule, he used his company's Illinois address for his mail, bills, bank statements, and auto registrations. Although the taxpayer filed a full-year Indiana income tax return for the years in question, the taxpayer avers that he spent no more than "2 to 4 weeks" in Indiana each year. He used his mother's address in Muncie to file for convenience and give his "home state . . . the benefit of [his] earnings"

I. Motor Vehicle Excise Tax – Imposition

DISCUSSION

Pursuant to Indiana Code section 9-18-2-1, an Indiana resident is required to register all motor vehicles owned by that person that are operated in Indiana. The Motor Vehicle Excise Tax is also outlined in IC 6-6-5-2:

There is imposed an annual license tax upon vehicles, which tax shall be in lieu of the ad valorem property tax levied for state or local purposes, but in addition to any registration fees imposed on such vehicles.

The term “vehicle” in IC 6-6-5-1 means a vehicle subject to annual registration as a condition of its operation on the public highways pursuant to the motor vehicle registration laws of the states.

Despite the fact that the taxpayer filed taxes for the years in question as a full-time resident of Indiana, the taxpayer now alleges that he was not in fact a resident of Indiana. To buttress this claim, the taxpayer invokes the language in IC 9-13-2-78, noting that he “does not have a child enrolled in an Indiana school.” The taxpayer also states that he did not incorporate his business in Indiana until 1998, thus wanting the Department to draw the inference that he was not in the state until that year.

Although the taxpayer’s first point is literally true, the taxpayer’s statement that he has no children attending Indiana schools is nonetheless disingenuous and cannot be invoked by the taxpayer. The reason is that the taxpayer does not have *any* children, therefore by definition he could not have children attending Indiana schools—or in Illinois schools for that matter. The language in IC 9-13-2-78 is aimed at parents with school age children, not people without children.

The taxpayer’s further statement that he did not incorporate his sales business, previously located in Illinois according to him, in Indiana until 1998 (thus outside the years in question) is factually inaccurate. Per the Secretary of State’s public records, the taxpayer incorporated in Indiana in April of 1997. This, combined with the taxpayer’s tax returns (which amount to a statement against interest; and if the taxpayer is correct that he was not an Indiana resident, he would need to re-submit his tax forms for each of the years in question), the fact that the car was purchased in Indiana, and that no documentation was provided to support the taxpayer’s position (proof that the taxpayer was registered to vote elsewhere during the period in question as *indicia*) means that the taxpayer has not even met his *prima facie* burden of proof to rebut the presumption that the assessment is valid.

FINDING

Taxpayer’s protest is denied.

II. Tax Administration – Penalty and Interest

DISCUSSION

Pursuant to Indiana Code section 6-8.1-10-2.1, the Department may waive the penalty upon the taxpayer's affirmative showing of a reasonable cause for the failure to pay the proper tax. The taxpayer argues that he did not intentionally evade the tax. The Department finds that the taxpayer has not met his burden of showing reasonable cause.

The taxpayer also protests the imposition of interest. Pursuant to IC 6-8.1-10-1(e) the Department may not "waive the interest imposed [in] this section."

FINDING

The taxpayer's protest is denied.